

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

<div style="display: flex; justify-content: space-between;"><div>ESMAT ZAKLAMA and SYLVIA ZAKLAMA,</div><div style="text-align: center;">:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div style="text-align: center;">Plaintiffs,</div><div style="text-align: center;">:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div style="text-align: center;">v.</div><div style="text-align: center;">:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div>INTERNAL REVENUE SERVICE, et al.,</div><div style="text-align: center;">:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div style="text-align: center;">Defendants.</div><div style="text-align: center;">:</div><div></div></div>	<div style="text-align: center;"><b>Hon. Dennis M. Cavanaugh</b></div> <div style="text-align: center; margin-top: 20px;"><b>OPINION</b></div> <div style="text-align: center; margin-top: 20px;">Civil Action No. 05-CV-374 (DMC)</div>
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DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon a motion by the United States (“Defendant”) to alter or amend this Court’s December 20, 2005 Order and Opinion to dismiss this action against Defendant Steven Ianacone. No oral argument was heard pursuant to Rule 78 of the Federal Rules of Civil Procedure. For the reasons set forth below, Defendant’s motion is **granted**.

**I. BACKGROUND**

The facts of this case are discussed in this Court’s December 20, 2005 Opinion. In the interest of judicial time, these facts will not be recited again. On December 20, 2005, this Court granted a motion to dismiss filed by Bank of America and Wachovia Bank. On that day, this Court also granted in part and denied in a part a motion to dismiss filed by the Internal Revenue Service (“IRS”) and its two employees, Maria Rodriguez and Steven Iancone, dismissing Esmat and Sylvia Zaklama’s (“Plaintiffs”) Complaint against all Defendants, except Steven Iancone. This Court now amends its decision and dismisses this action as to Defendant Iancone.

## **II. DISCUSSION**

### **A. Proper Service**

Rule 4(i)(2)(B) of the Federal Rules of Civil Procedure, requires a plaintiff suing an employee of the United States in his or her individual capacity, to not only personally serve the employee, but to serve the United States Attorney's Office and the Attorney General of the United States as well. Rule 4(i)(1) requires a plaintiff to serve the United States by having a copy of the summons and complaint served on the United States Attorney for the district in which the action is brought, and on the Attorney General of the United States. Here, Defendant Ianacone is employed by the IRS and is therefore an employee of the United States. Accordingly, Plaintiffs must serve the United States Attorney's Office and the Attorney General with the summons and complaint in order to properly serve Defendant Ianacone.

Plaintiffs have again failed to perform proper service. On February 8, 2006, Plaintiffs electronically filed documents indicating that Defendant Ianacone was not served personally but served via certified mail. The box next to personal service was not checked off. Therefore, Plaintiffs did not serve Defendant Ianacone in accordance with Rule 4(i)(2)(B) of the Federal Rules of Civil Procedure. Plaintiffs have also failed to provide any proof of service for the United States Attorney's Office or for the Attorney General. Plaintiffs have been given more than one chance to properly serve Defendant Ianacone. For these reasons, Plaintiffs' Complaint against Defendant Ianacone must be dismissed.

## **III. CONCLUSION**

For the reasons stated, it is the finding of this Court that the United State's motion to amend this Court's judgment as to Defendant Ianacone is **granted**. Plaintiffs' Complaint against

Defendant Ianacone is dismissed. An appropriate Order accompanies this Opinion.

S/ Dennis M. Cavanaugh  
Dennis M. Cavanaugh, U.S.D.J.

Date: April 6, 2006  
Original: Clerk's Office  
Cc: All Counsel of Record  
The Honorable Mark Falk, U.S.M.J.  
File